

and if the land be sold by the acre, the quantity is always ascertained by a survey under its authority. But I never have, nor can admit, that a trustee, after the sale has been ratified, shall be allowed, in any manner, of himself and without the previous express authority of this Court, to compromit, or abandon any right in relation to the sale so made, or to relinquish the bond, bill, or note taken for the purchase money, or to dispose of the property, or purchase money to any one, or upon any ground whatever. And moreover, I never have nor can admit, that any Court of common law, or concurrent Court of equity, much less a justice of the peace, should undertake to pronounce, in a suit upon a bond, bill, or note taken to secure the purchase money of a sale made under the authority of this Court, that the consideration of such instrument had in part, or altogether failed; because of some fraud or mistake in the proceedings of this Court, or its trustee. If any trustee or judicial authority, other than the Court of Appeals, were to be suffered, upon any ground or pretext, thus to thwart the regular course of this Court, some of its most important proceedings might be paralyzed or perverted; and the injury to its suitors would be incalculable. Therefore, although the amount of value involved in this case is exceedingly small, I cannot permit myself, in any way, to tolerate or sanction what has been done by this trustee and the justice of the peace.

Whereupon it is ordered, that the said report of the trustee filed on the 21st instant, be, and the same is hereby dismissed with costs to be taxed by the register.

ANSWER OF LUNATIC BY HIS COMMITTEE.—PARTITION OF REAL AND PERSONAL PROPERTY.

Where it is charged in the bill, that the defendant is in custody as a lunatic, it is of course for his committee to answer for him; but if the committee be interested in the matter in controversy, then the lunatic must have a guardian appointed for him.

This Court has jurisdiction to make partition of real and personal estate; but if the personal estate be in the hands of an executor or administrator, it must, in general, be distributed under the direction of the Orphans' Court. (a)

THIS bill was filed on the 22d of January, 1831, by Eli Hewitt against Rezin D. Hewitt and Jacob Hewitt; it states that Eli

(a) Cited in *Williams v. Holmes*, 9 Md. 287; *Phelps v. Stewart*, 17 Md. 240. As to partition of real estate, see *Tomlinson v. McKaig*, 5 Gill, 256, note. As to partition of personal property, see *Crapster v. Griffith*, 2 Bland, 5, note.